

HEADQUARTERS REVIEW OF CONTRACT AND FINANCIAL ASSISTANCE ACTIONS



Guiding Principles

- ✓ Know your “buddy”
- ✓ Do an annual plan
- ✓ Allow adequate lead time
- ✓ Complete your internal review
- ✓ Submit complete packages

Overview

This section discusses the procedures for Headquarters Business Clearance review and approval of contract and financial assistance actions awarded by DOE contracting activities other than the National Nuclear Security Administration. Separate NNSA coverage is in BOP-003 and BOP-304.

Background

Solicitations, contract awards, and other contract and financial assistance actions which exceed the authority delegated to the Head of Contracting Activity (HCA), that are likely to provoke unusual public interest, or, that are new or of an unusual nature, are to be submitted to the Procurement Executive, or designee, for appropriate review and approval.

Reviewable actions include those relating to the solicitation and award of contracts, financial assistance, subcontracts, and agreements with other governmental agencies, and subsequent modifications, extensions, and settlements or terminations thereof.

The Office of Contract Management (OCM) is available to consult with Headquarters and Field Office personnel regarding actions that are likely to provoke unusual public interest, are of a new and unusual nature, are questions of policy or are questions of a procedural nature that may arise in the course of contract negotiation, award, and administration. Such issues should be raised to the OCM at the earliest practicable date.

Annual Projected Actions

Prior to the beginning of each fiscal year, the OCM issues a request for each contracting activity to provide a projection for the upcoming fiscal year of known or contemplated contract and financial assistance actions exceeding delegated thresholds, and other appropriate actions

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expected for that year. Based on the contracting activity's submission, the OCM will identify specific actions to be submitted to the OCM for Headquarters Business Clearance review and

approval. If an action is selected for Headquarters Business Clearance review and approval, the OCM, will notify the Procurement Director at which point(s) in the acquisition cycle the action must be submitted for Headquarters Business Clearance review and approval. The OCM may, under certain circumstances, select an action for "limited" review, e.g., review of the solicitation only as opposed to review of both the solicitation and the subsequent award documents. Actions not selected for Headquarters Business Clearance review and approval are deemed to have received a waiver from such review.

Contracting activities are also expected to report to the OCM any action that may arise during the course of the fiscal year which exceeds the local delegation thresholds and that has not been submitted in the annual projected actions. The OCM will review each action on a case-by-case basis to determine if the action should be submitted for Headquarters Business Clearance review and approval. Accordingly, contracting officers (COs) should ensure that adequate lead time exists in the acquisition schedule to permit Headquarters Business Clearance review and approval to occur. Poor acquisition planning is not an acceptable basis for a waiver.

Headquarters Business Clearance Review

A complete package must be submitted to OCM in order to facilitate the review process. The attachments to this chapter list the documentation to be submitted for each type of action. A complete package is one that contains all the appropriate documentation listed in the attachments hereto. The initial review is one that results in a set of questions, comments, issues and/or suggestions that are submitted to the CO for resolution. The final review is one that results in the receipt of Headquarters Business Clearance review and approval based upon the resolution of questions, comments, issues and/or suggestions that were submitted to the CO. Normally the initial review should be completed within 10 working days from receipt of a complete package. The initial review may, or may not, result in Headquarters Business Clearance review and approval. The time required for Headquarters Business Clearance review and approval varies on a case-by-case basis, as approval is dependent on such things as the complexity of the procurement, the nature and extent of review comments, internal coordination requirements within Headquarters, and the quality of the documents submitted for review. Experience indicates that final Headquarters Business Clearance review and approval for competitive solicitations and contracts for major site and facility management may take significant time. Contract and financial assistance lead times should take these variables into consideration. In the event that an expedited review is needed to support program needs, COs should contact the contracting activity's OCM liaison ("buddy").

An advance review is one that is performed on a less than complete package and has not been through any internal review and approval by the contracting activity. Advance review of preliminary draft documents for advice/consultation or to facilitate the review process should be coordinated with the contracting activity's "buddy". However, an advance review of preliminary

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draft documents should not be considered as final Headquarters Business Clearance review and approval.

Depending on the type of action being reviewed, the OCM will send the review package to the following offices for review, as appropriate:

- Assistant General Counsel for Procurement and Financial Assistance, (GC-61).
- The Office of Procurement and Assistance Policy (ME-61).
- The Office of Resource Management (ME-63).
- Assistant General Counsel for Technology Transfer and Intellectual Property (GC-62).
- The cognizant Headquarters program official.
- The Office of Small and Disadvantaged Business Utilization, (ED-3).
- The Office of Environment, Safety, and Health, (EH-73).
- The Deputy General Counsel for the Environment and Nuclear Programs, (GC-50).
- The Office of Legacy Management, (LM-1).
- The Office of Engineering and Construction Management (ME-90)

Additional offices may be requested to review a package depending on the nature of the requirement. The purpose of having other HQ offices participate in the Business Clearance review, as requested by OCM, is to bring the subject matter or technical expertise of the requested office to bear as part of the overall HQ review. Each office contributes its own subject matter or technical knowledge to the review and is not expected to review areas outside or beyond their own expertise. The OCM is aware of the time constraints the contracting activities are under, therefore, every attempt will be made to coordinate the action and resolve questions, comments, issues and/or suggestions in “real time”. That is, OCM will facilitate dialogue between Headquarters’ review offices and the contracting activity during the course of the review.

Submission of Documents

In general, electronic submission of the review package is preferred. If paper copies are to be submitted, the number of copies needed should be coordinated with the contracting activity’s “buddy” based on anticipated review requirements.

Attached hereto, by type of action are document submission requirements and a summary of the general scope of OCM’s Headquarters Business Clearance review and approval. Attachment E, Management and Operating Contracts, applies specifically to extend/compete, option exercise, and PBI/award fee actions as they relate to M&O or other major site and facility contracts. Any other actions for M&O or other major site and facility contracts should refer to the other attachments to this document for guidance as appropriate.

Attachments

Attachment A - Contract Solicitations

Attachment B - Competitive/Non-competitive Contracts/Contract Modifications

Attachment C - Negotiation Memorandum

Attachment D - Financial Assistance

Attachment E - Management and Operating Contracts/Site and Facility Management Contracts

Attachment F - Ratification Actions

Attachment G - Subcontract Actions

Attachment H – Interagency Agreements

ATTACHMENT A — CONTRACT SOLICITATIONS (See note 1)

DOCUMENTS SUBMISSION

Prior to Submission of the Draft Request for Proposal (RFP)/Invitation for Bid (IFB)

The following documents and information shall be submitted:

- Approved Site Utilization and Management Plan (SUMP)(or equivalent), if required;
- Acquisition Plan (AP);
- Name, telephone number and email address of the cognizant CO and contract specialist;
- Name and telephone number of the cognizant Headquarters program official; and
- Evidence of local independent review and approval including legal review. This includes submission of comments and resolution thereof.

Draft Request for Proposal (RFP) (Including the Model Contract)

The following documents and information shall be submitted:

- Draft RFP, including the model contract;
- Name, telephone number and email address of the cognizant CO and contract specialist;
- Name and telephone number of the cognizant Headquarters program official;
- Acquisition Plan (if DOE Order 413.3 is applicable include a copy of the Secretarial Acquisition Executive or Acquisition Executive approval, or if a project Acquisition Strategy was developed, a copy of that approved Strategy);
- Site Utilization and Management Plan(or equivalent), if required;
- Justification for Other Than Full and Open Competition (JOFOC), if applicable;
- Rating Plan or Source Selection Plan, if applicable;
- A synopsis of the major areas to be addressed in the Contract Management Plan (CMP).
Once the draft CMP is completed, by the procurement representative to the SEB, but prior to approval, the draft CMP is to be submitted for review to the Contract Administration Division (ME-622). It is to be submitted as soon as it is completed but not later than 30 days after contract award. (See Chapters 7 and 42 for guidance on contract management planning and creating formal CMPs. If a CMP is required, the procurement representative to the SEB shall be responsible for preparation of the synopsis/CMP.);
- Copies of any deviations being requested; and,
- Evidence of local independent review and approval including legal review. This includes submission of comments and resolution thereof.

Note 1: By previous Secretarial direction, OPAM, through OCM, is responsible for the review and approval of solicitations and contracts for privatization projects funded by the Office of Environmental Management (EM). Accordingly, acquisition plans, solicitations, and contracts for EM-funded

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privatization projects are to be submitted to OCM for review and approval. OCM will provide for the coordination of the review and approval process with other cognizant Headquarters organizations.

Draft Invitation for Bid (IFB) (Including the Model Contract)

The following documents and information shall be submitted:

- Draft IFB;
- Name, telephone number and email address of the cognizant CO and contract specialist;
- Name and telephone number of the cognizant Headquarters program official;
- Acquisition Plan (if DOE Order 413.3 is applicable include a copy of the Secretarial Acquisition Executive (SAE) or Acquisition Executive approval, or if a separate Project Acquisition Plan was developed, a copy of that approved Plan);; and
- Evidence of local independent review and approval including legal review. This includes submission of comments and resolution thereof.

DOCUMENTS REVIEW

Acquisition Plan (AP)

The OCM review of the AP will include:

- The appropriateness and adequacy of the acquisition strategy in meeting program requirements;
- The AP is consistent with the SUMP (if required), and
- Sufficiency in addressing the requirements FAR Part 7.105, and DOE Acquisition Guide Chapter 7 to include:
 - Requirements (FAR 7.105(a)). Are performance outcomes and results consistent with program objectives and the site or institutional plan (if applicable)?
 - Logistics Strategies (FAR 7.105(b)(13)). Is the acquisition consistent with Department of Energy (DOE) wide logistics strategies, if any? Does the logistics strategy make sound business sense?
 - Risks (FAR 7.105(a)(7)). Does the contract, and/or contract management plan address and or mitigate identified risks?
 - Contract Type (FAR 7.105(b)(4)). Does the proposed contract type make sound business sense?
 - Performance-Based Contracting. Does the proposed procurement/contract maximize the use performance-based contracting techniques?
 - Competition (FAR 7.105(b)(2)(i)). Is full and open competition sought to the maximum extent practicable?
 - Socioeconomic Considerations. Is the proposed procurement consistent with DOE small businesses and/or other socioeconomic policies and strategies?

- Postaward Business Arrangements. Does the contract management plan address significant, unusual, or complex issues?

Draft RFP (Including the Model Contract)

The OCM review of the solicitation package will include:

- Appropriateness and adequacy of the acquisition strategy;
- Review the solicitation to ensure that it is internally consistent. For example, verify the following:
 - Sections I and L are consistent, e.g., any contract requiring the DEAR 52.204-2, Security clause, in Section I, would require the DEAR 970.204-73 Facility Clearance provision, in Section L;
 - Sections L and M are consistent and there are no discrepancies between what offerors are asked to provide in section L versus what the Government plans to evaluate as stated in section M;
 - Section M is consistent with the rating/source selection plan;
 - The evaluation criteria are clear and do not overlap;
 - The evaluation criteria are appropriate for the acquisition, including how cost/price will be evaluated and how best value trade-offs will be determined; and
 - Past performance is evaluated in accordance with FAR Part 15, and that the information requested in the past performance questionnaire is consistent with the information requested and evaluated in sections L and M.

The OCM review of the model contract will include:

- Regulatory and policy compliance;
- Position descriptions are clear and appropriately written to meet the Government's requirements (that is, not overly restrictive or overly permissive);
- Verification that the clauses, including the Section H, Special Contract Requirements and deviations, are appropriate for the type of contract requirements;
- The following as appropriate:
 - Appropriate security clauses are included if access to restricted or classified data is anticipated;
 - If the solicitation contemplates a set-aside, the required small business or small disadvantaged business clauses;
 - Appropriate cost accounting standards clauses;
 - Organizational Conflicts of Interest clauses specified by FAR Subpart 9.5 and Department of Energy Acquisition Regulation (DEAR) Subpart 909.5; and
 - Compliance with the requirements of FAR Part 19. Review the solicitation for price evaluation adjustment factors and any other required evaluation factors for small

- disadvantaged business and HUBZone business participation as specified in FAR Subparts 19.11, 19.12, and 19.13.
- Verification that the RFP contains the required performance based elements.
- Is the Statement of Work (SOW) written in terms of results/outcome vs. “how” the work is to be accomplished? Ensure that performance objectives are focused on the outcome and results rather than process or activities.
- Are there performance requirements that define the work in measurable, mission-related terms?
- Does it contain performance standards (e.g., quality, timeliness, quantity, cost control) tied to the performance requirements?
- For capital asset acquisitions greater than \$5 million, application of DOE Order and Manual 413.3, any Section H special provisions related to project management and Earned Value Management, and required deliverables (including as appropriate, requirements for submission of a Project Control System Definition, Project Control System Description, Project Schedule and Cost Baselines, and Project Risk Assessment, etc.)
- Is there a Government quality assurance (QA) plan that describes how the contractor’s performance will be measured against the performance standards?
- Are there positive and negative incentives tied to the Government QA plan measurements?
- Ensure that the performance objectives, measures and performance based incentives (PBIs) are appropriate in scope, number, etc., fee allocated to the specific objective is reflective of the value or importance of the work contemplated.
- If the SOW is not performance based, the cognizant contracting officer must provide a written explanation as to why the solicitation cannot be performance based or why it is exempt from the requirement.
- Verification that the SOW does not contain any inherently Governmental functions.
- The OCM review of the synopsis of the major areas to be addressed in the CMP will include:
 - Compliance with existing guidance on CMPs, and
 - Coverage of significant contract management concerns (risk areas, contract type, transition, etc.)

Draft IFB

The OCM review of the model contract will include:

- Regulatory and policy compliance;
- Verification that the clauses, including the Section H, Special Contract Requirements and deviations, are appropriate for the type of contract requirements;
- The following as appropriate:

- Appropriate security clauses are included if access to restricted or classified data is anticipated;
- If the solicitation contemplates a set-aside, the required small business or small disadvantaged business clauses;
- Appropriate cost accounting standards clauses;
- Organizational Conflicts of Interest clauses specified by FAR Subpart 9.5 and Department of Energy Acquisition Regulation (DEAR) Subpart 909.5; and
- Compliance with the requirements of FAR Part 19. Review the solicitation for price evaluation adjustment factors and any other required evaluation factors for small disadvantaged business and HUBZone business participation as specified in FAR Subparts 19.11, 19.12, and 19.13.
- For capital asset acquisitions greater than \$5 million, application of DOE Order and Manual 413.3, any Section H special provisions related to project management and Earned Value Management, and required deliverables (including as appropriate, requirements for submission of a Project Control System Definition, Project Control System Description, Project Schedule and Cost Baselines, and Project Risk Assessment, etc.)
- Verification that the SOW does not contain any inherently Governmental functions.



ATTACHMENT B — COMPETITIVE/NON-COMPETITIVE CONTRACTS AND CONTRACT MODIFICATIONS

DOCUMENTS SUBMISSION

The following documents and information shall be submitted:

- Draft RFP/contract modification;
- Name, telephone number and email address of the cognizant CO and contract specialist;
- Name and telephone number of the cognizant Headquarters program official;
- Justification for Other Than Full and Open Competition (JOFOC), if applicable;
- Documentation (including technical evaluation of costs) to support a pricing action;
- Copies of any deviations processed or being requested;
- Evidence of local independent review and approval including legal review. This includes submission of comments and resolution thereof; and
- Draft CMP. (See Chapters 7 and 42 for guidance on contract management planning and creating formal CMPs.)

DOCUMENTS REVIEW

The OCM review of the contract/contract modification will include:

- Appropriateness and adequacy of the acquisition strategy;
- Regulatory and policy compliance;
- Verification that the clauses, including the Section H, Special Contract Requirements, and deviations, are appropriate for the type of contract requirements;
- Verification that the contract/contract modification is in compliance with the terms and conditions of the contract.
- Verification that the SOW does not contain any inherently Governmental functions;
- For capital asset acquisitions greater than \$5 million, application of DOE Order and Manual 413.3, any Section H special provisions related to project management and Earned Value Management, and required deliverables (including as appropriate, requirements for submission of a Project Control System Definition, Project Control System Description, Project Schedule and Cost Baselines, and Project Risk Assessment, etc.)
- Verification that release language, if appropriate, is included;
- Ensure that the cost evaluation makes sound business sense and was accomplished using all appropriate resources (i.e. DCAA audit reports, government estimate, technical evaluation of costs, etc.);
- Verification that the contract/contract modification contains the required performance based elements; and
- Verification that the CMP comports with existing guidance and addresses the significant administration/management concerns under the contract.

• **ATTACHMENT C — NEGOTIATION MEMORANDUM**

DOCUMENTS SUBMISSION

The following documents and information shall be submitted to the OCM, in accordance with the procurement cycle phase set forth below:

Prior to Negotiations. Prior to the start of formal negotiations and briefing of the Source Selection Official (not discussions with offerors) concerning contract awards, the following documents are required for review:

- Name and telephone number of the cognizant Headquarters program official;
- Name, telephone number and email address of the cognizant CO and contract specialist;
- Technical Evaluation Committee (TEC) or Source Evaluation Board (SEB) report (if applicable);
- Draft (unsigned) Source Selection Statement (SSS) (if applicable);
- Documentation (including technical evaluation of costs) to support a pricing action (including evaluation of fee or profit); and
- Evidence of local independent review and approval including legal review. This includes submission of comments and resolution thereof.

For IFBs, the following documents and information are required:

- Record of bid opening and selection;
- Name and telephone number of the cognizant Headquarters program official;
- Name, telephone number and email address of the cognizant CO and contract specialist;
- A copy of the successful bid;
- A record of the price analysis that was performed; and
- Evidence of local independent review and approval including legal review. This includes submission of comments and resolution thereof.

Prior to the Completion of Negotiations. If there were significant departures from the objectives of the pre-negotiation plan or provisions of the model contract, or if new and significant issues developed which were not addressed in the pre-negotiation plan, the CO shall submit these revisions to the OCM for review and approval.

After Completing Negotiations. One copy of the post negotiation summary and negotiated contract shall be submitted for Headquarters Business Clearance review and approval to the OCM prior to award of the contract. In the event all of the pre-negotiation objectives were substantially met, OCM may elect to waive, or limit, its review of post negotiation documents. In this event, the CO should provide OCM with a copy for information purposes and not for the purpose of obtaining Headquarters Business Clearance review and approval.

DOCUMENTS REVIEW

The OCM review of the pre-negotiation package will:

- Ensure that TEC or SEB report is consistent with the rating/source selection plan;
- Ensure that the evaluation (technical and cost) of offers conforms with Sections L and M of the solicitation and that evaluation criteria were properly evaluated;
- Ensure that strengths and weaknesses cited in the TEC or SEB report are supportable and properly documented;
- Ensure that evaluation of offerors was consistent and in accordance with the rating/source selection plan;
- Ensure that the cost evaluation makes sound business sense and was accomplished using all appropriate resources (i.e. DCAA audit reports, government estimate, technical evaluation of costs, etc.);
- If discussions were held, ensure that discussions were complete and meaningful;
- Ensure that the SSS is in accordance with the rating/source selection plan, applies sound business judgment, and is legally supportable; and
- Ensure that the SSS contains a sufficiently documented discussion of cost vs. technical tradeoffs.

IFBs

The OCM review of the IFB will:

- Ensure the price analysis documentation was performed properly and makes sound business sense;
- Ensure that the award will be made to the lowest acceptable bidder; and
- Ensure that the apparent successful bid, and the award, conforms to the provisions of the IFB.

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ATTACHMENT D — FINANCIAL ASSISTANCE

DOCUMENTS SUBMISSION

Prior to the release of the funding opportunity announcement, the following documents and information shall be submitted:

- Name and telephone number of the cognizant Headquarters program official;
- Name, telephone number and email address of the cognizant CO and contract specialist;
- Copies of any deviations processed or being requested;
- Evidence of local independent review and approval including legal review. This includes submission of comments and resolution thereof; and
- The draft funding opportunity announcement including merit review criteria, Program Policy Factors, and the Merit Review Plan.

Prior to the approval of a Determination of Non-Competitive Financial Assistance (DNFA), except for the public interest criterion in 10 CFR 600.6(c)(8), the following documents and information shall be submitted:

- The DNFA;
- Supporting documentation such as a copy of the application and merit review documentation;

Prior to the award of a competitive or non-competitive financial assistance action, the following documents and information shall be submitted:

- The draft agreement;
- Supporting documentation such as a copy of the selected proposal, budget review documentation and technical evaluation (if applicable);
- Recommendation to the Source Selection Official and the SSS (if applicable);
- Evidence of local independent review and approval including legal review. This includes submission of comments and resolution thereof; and
- Renewal applications/awards. The CO shall notify OCM when the renewal will cause the financial assistance award to exceed the delegation authority of the contracting activity.

DOCUMENTS REVIEW

The OCM review of the financial assistance package prior to release of the announcement will include:

- Solicitation strategy to include technical, business and financial aspects;
- Regulatory and policy compliance; and

- Verification that the announcement's provisions are appropriate (i.e. non-profit, universities, etc.).

The OCM review of the DNFA package prior to approval will include:

- Verification that the DNFA is thorough and is a sound management decision; and
- Verification that the eligibility criteria are appropriate and concurrence and approval are at the appropriate level.

The OCM review of the financial assistance package prior to award of the financial assistance action will include:

- Verification that the announcement's provisions are appropriate (i.e., non-profit, universities, etc.) if not previously reviewed;
- Ensure that the budget review makes sound business sense and was accomplished using all appropriate resources (i.e. government estimate, technical evaluation of costs, etc.); and
- Verification that the selection documentation is consistent with the announcement's selection criteria and programmatic policy factors.

ATTACHMENT E — MANAGEMENT AND OPERATING CONTRACTS/SITE AND FACILITY MANAGEMENT CONTRACTS

DOCUMENTS SUBMISSION

Extend/Compete Actions (including options in non-competitively awarded contracts)

No later than 18 months prior to the expiration of the term of the contract, a recommendation to extend/compete a management and operating contract shall be submitted to the Head of the Agency through the Director for Procurement and Assistance Management. In accordance with AL 96-09, the following documents must accompany such a submittal.

- A JOFOC (if extension is recommended) prepared in accordance with FAR Part 6;
- Certification by the HCA and cognizant program Assistant Secretary that the use of full and open competition is not in the best interests of the Department (if extension is recommended);
- A description of the incumbent's performance history including measurable results against established performance measures and criteria;
- Identification of significant projects planned during the extension period and review to ensure for capital asset acquisitions greater than \$5 million, incorporation of DOE Order and Manual 413.3 in List B of DEAR 970.5204-2 Laws, Regulations and Directives (or depending on the nature of the contract through some other clause);
- Identification of issues and negotiation objectives for the extension period, including the extent to which performance based management provisions are present, or, can be negotiated into the contract;
- If the contractor is a Federally Funded Research and Development Center (FFRDC), a review of the use and continued need for the FFRDC designation in accordance with FAR 35.017-4;
- A determination that the M&O contract or performance based management contract remains appropriate;
- A discussion of the potential impact of a change in contractor on program needs; and
- Site Utilization and Management Planning Documentation.

Exercise of Option for an M&O or Other Major Site or Facility Contract

The exercise of an option shall be approved by the Procurement Executive and the cognizant Assistant Secretary(ies). The documentation required is identical to the documentation required in an extend/compete package, less the JOFOC and the Certification by the HCA and cognizant program Assistant Secretary that the use of full and open competition is not in the best interests of the Department. The contracting activity shall submit documentation prepared by the CO and approved by the cognizant Assistant Secretary(ies) that the exercise of the option is in the best interest of the Government.

PBIs/Award Fee Plans

The following information shall be provided with the documents submitted to OCM for Headquarters Business Clearance review and approval prior to commencement of negotiations with an offeror, or in the case of an existing contracts, the incumbent contractor:

- Name and telephone number of the cognizant Headquarters program official;
- Name, telephone number and email address of the cognizant CO and contract specialist;
- The Performance Evaluation and Management Plan/Award Fee Plan (or equivalent document);
- Documentation supporting the fee methodology;
- Documentation supporting the selection and/or changes to performance-based requirements, objectives, measures and incentives; and
- Evidence of local independent review and approval including legal review. This includes submission of comments and resolution thereof.

DOCUMENTS REVIEW

Extend/Compete Actions

The OCM will:

- Review the JOFOC and supporting documents;
- Prepare Action Memo from Procurement Executive to ME-1;
- Prepare Action Memo from ME-1 through the Undersecretary to the Secretary;
- Prepare Statement authorizing The Use of a Management and Operating Contract with signature line to be authorized by the Secretary, Deputy Secretary or Under Secretary;
- Prepare Statement authorizing the continued Use of an FFRDC Designation; and
- Prepare letters notifying Congress of non-competitive extensions in accordance with Acquisition Letter 2000-11 (12/15/00).

Exercise of Option for an M&O or Other Major Site or Facility Contract

The OCM will:

- Review supporting documents;
- Prepare letters informing Congress of the option exercise; and
- Prepare Action Memo for Procurement Executive.

The OCM will:

- Review the relationship of the performance objectives, measures and incentives to the critical strategic path and the tactical objectives of the site;
- Ensure that the performance objectives, measures and incentives are appropriate in scope, number, etc. for the work contemplated;
- Ensure that the objectives to be measured are suited for the application of PBIs/award fee;
- Review the structure of the PBI itself;
- Ensure that the amount of fee allocated to the specific objective are reflective of the value or importance of the work;
- Ensure that performance objectives are focused on the outcome and results rather than process or activities;
- Review the fee structure and the allocation between and among, objective and subjective measures;
- Ensure that performance objectives, measures and incentives are structured to improve overall contractor performance;
- Verify that any performance objectives, measures and incentives are in accordance with procedures of the applicable Headquarters program office and that appropriate Headquarters program office coordination has occurred;
- Review the relationship of proposed performance objective, measures and incentives to current/past performance objectives, measures and incentives to ensure that proposed metrics have considered/built on past metrics; and
- Ensure that the impact of year-to-year changes to operating conditions have been considered in the development of performance objectives, measures and incentives

The Procurement Executive may waive review of PBI/Award Fee plans upon an affirmative demonstration by the HCA that internal processes are adequate to ensure that the performance measures and associated fee structures are properly developed and administered. Requests for such waiver must demonstrate that an internal process exists which (a) assesses all performance objectives, award fees, and specific incentives tied to discrete performance objectives to ensure they are well-defined, rational, appropriately integrated prior to their negotiation and inclusion in the contract, and (b) ensures that mechanisms exist as part of contract administration for the validation of contractor performance against objectives.

ATTACHMENT F — RATIFICATION ACTIONS

DOCUMENTS SUBMISSION

The following documents and information shall be submitted for ratification of an unauthorized commitment:

- All records and documents concerning the commitment;
- A written statement through the cognizant local supervising Program Office Director containing:
 - Name of the Government representative who entered into the unauthorized commitment;
 - A statement as to why authorized procurement procedures were not used;
 - Rationale why the contractor was selected;
 - A list of other sources considered;
 - Description of work performed or products delivered;
 - A reference to funds availability at the time of the unauthorized commitment.
 - The status of the work; and
 - Recommendation(s) for corrective action(s) for avoidance of unauthorized commitments; and
- A document originated by the CO and signed off by the HCA that includes:
 - A statement that supplies or services have been provided and accepted by the Government, or that the Government has or will obtain a benefit resulting from performance;
 - A synopsis of events that transpired resulting in the unauthorized commitment;
 - A statement that the resulting contract would have been proper if made by a CO;
 - A determination by the CO that the price is fair and reasonable;
 - A statement by the CO recommending payment;
 - Evidence of local legal review; and
 - A statement that funds are currently available.

DOCUMENTS REVIEW

The OCM will:

- Forward any comments to CO for response/resolution;
- Obtain GC's concurrence;
- Prepare a point paper to present to the Procurement Executive with a recommendation to either approve or not approve the ratification; and
- Send response back to the CO.

ATTACHMENT G — SUBCONTRACT ACTIONS

DOCUMENTS SUBMISSION

The following documents and information shall be submitted to the OCM as appropriate for the procurement (i.e., sole source or competitive):

Prior to release of subcontract action. Prior to releasing the RFP or model subcontract the following documents are required for review:

- Name and telephone number of the cognizant Headquarters program official;
- Name, telephone number and email address of the cognizant CO and contract specialist;
- Acquisition Plan;
- Draft RFP/model subcontract;
- If sole source, a copy of the justification for a noncompetitive action;
- If competitive a copy of the source selection criteria; and
- Evidence of local independent review and approval including legal review by both the contractor and DOE Field/Site office. This includes submission of comments and resolution thereof.

Prior to the subcontract award. If the subcontract action is competitive, the following documents shall be submitted for review:

- Documentation supporting the technical evaluation;
- Documentation (including technical evaluation of costs) to support a pricing action (including evaluation of fee or profit);
- Draft (unsigned) Source Selection Statement (if applicable); and
- Evidence of local independent review and approval including legal review by both the contractor and DOE Field/Site office. This includes submission of comments and resolution thereof.

Prior to the start of negotiations. If the subcontract action is non-competitive, the following documents shall be submitted for review:

- Documentation (including technical evaluation of costs) to support a pricing action (including evaluation of fee or profit);
- Evidence of local independent review and approval including legal review by both the contractor and DOE Field/Site office. This includes submission of comments and resolution thereof.

Prior to the Completion of Negotiations. If there were significant departures from the objectives of the pre-negotiation plan or provisions of the model contract, or if new and significant issues developed which were not addressed in the pre-negotiation plan, the CO shall submit these revisions to the OCM for review and approval.

After Completing Negotiations. One copy of the post negotiation summary and negotiated contract shall be submitted for Headquarters Business Clearance review and approval to the OCM prior to award of the contract. In the event all of the pre-negotiation objectives were substantially met, OCM may elect to waive, or limit, its review of post negotiation documents. In this event, the CO should provide OCM with a copy for information purposes and not for the purpose of obtaining OCM review and approval.

DOCUMENTS REVIEW

The OCM review of the subcontract package will include:

- Acquisition strategy to include business and financial aspects;
- Regulatory and policy compliance;
- Verification that the clauses are appropriate for the type of contract and technical requirements;
- Review may include the following:
 - Appropriate security clauses are included if access to restricted or classified data is anticipated;
 - For capital asset acquisitions greater than \$5 million, application of DOE Order and Manual 413.3
 - If the solicitation contemplates a set-aside, the required small business or small disadvantaged business clauses;
 - Appropriate cost accounting standards clauses; and
 - Organizational Conflicts of Interest clauses specified by FAR Subpart 9.5 and DEAR Subpart 909.5.
- Review the documentation to ensure that it is internally consistent. For example, verify the following:
 - The evaluation criteria are clear and do not overlap;
 - The evaluation criteria are appropriate for the acquisition including how cost/price will be evaluated;
 - Past performance is evaluated;
 - Position descriptions are clear and appropriately written to meet requirements (that is, not overly restrictive or overly permissive). and
 - The prime contractor may be asked to provide an explanation and justification for any unusual solicitation language.

ATTACHMENT H — INTERAGENCY AGREEMENTS

DOCUMENTS SUBMISSION

The following documents and information shall be submitted:

- Name and telephone number of the cognizant Headquarters program official;
- Name, telephone number and email address of the cognizant CO and contract specialist;
- A copy of the SOW and other applicable contractual documents should the servicing agency be using an existing contract;
- The Determination and Findings signed by the CO supporting the use of an interagency agreement (IA) ; and,
- Evidence of local independent review and approval including legal review. This includes submission of comments and resolution thereof.

DOCUMENTS REVIEW

The OCM review of the IA package will include:

- Regulatory and policy compliance;
- Ensure that the supplies or services requested under the IA are within the scope of the servicing agency's contract;
- Ensure the servicing agency's contract does not circumvent DOE policies with respect to competition, small business and performance based acquisition;
- Verification that any special DOE unique terms and conditions are appropriate for the type of contract requirements;
- Ensure that the supplies or services being acquired are within the servicing agency's authority; and
- Appropriate security clauses are included if access to restricted or classified data is anticipated.